

EXEMPTIONS AND LOOPHOLES IN CALIFORNIA'S SMOKE-FREE WORKPLACE LAW

Fail to Protect Vulnerable Populations and Promote Health Inequities

While once the leader in protecting workers from the toxic effects of secondhand smoke, California has fallen behind.

Twenty-four other states and the District of Columbia are considered 100% smoke-free by the Centers for Disease Control and Prevention (CDC), but California is not among them. Why? Because exemptions and loopholes in California's Smoke-Free Workplace law (Labor Code Section 6404.5) mean employees and patrons of certain businesses continue to be exposed to secondhand smoke.

Smoking is still **ALLOWED** in the following indoor worksites:

Hotels/Motels

- Smoking is **allowed** in 65% of hotel/motel guest rooms.
- Smoking is **allowed** in up to 25% or 50% of a hotel/motel lobby, depending on the square footage of the lobby (Labor Code Section 6404.5 (d)(1) and (2)).

Banquet Facilities & Meeting Rooms

Smoking is **allowed** in meeting and banquet rooms in a hotel, motel, lodging establishment, restaurant, or public convention center, except during food or beverage functions, setup, service, and cleanup, or when the room is being used for exhibit purposes (Labor Code Section 6404.5 (d)(3)).



Break Rooms

Smoking is **allowed** in designated break rooms if:

- The room is in a non-work area;
- Nonsmoking break rooms are provided;
- Air from the smoking area is exhausted directly outside; and
- Ventilation standards are met (Labor Code Section 6404.5 (d)(13))

No ventilation standards exist.
Therefore, these exemptions
should never be used to allow
smoking in indoor workplaces.

Small Businesses

For businesses with five or fewer employees, smoking is allowed in designated areas if:

- Smoking areas are not accessible to minors
- All employees entering the smoking area consent to permit smoking
- Air from the smoking area is exhausted directly outside; and
- Ventilation standards are met

This exemption does **NOT** apply to bars, restaurants or gaming facilities (Labor Code Section 6404.5 (d)(14)).

Owner-operated Businesses

Because Labor Code Section 6404.5 only applies to places of employment, smoking is **allowed** inside if the business has no employees and is solely owner-operated.

Volunteer-operated Facilities (e.g. Bingo)

Smoking is **allowed** inside if the facility has no employees and is solely owner-operated. Smoking is also **allowed** if the venue is volunteer operated (with no employees) and not a place of employment. Labor Code Section 6404.5 only applies to places of employment.

Retail/Wholesale Tobacco Shops & Private Smokers' Lounges

Smoking is **allowed** in tobacco shops — defined as businesses whose main purpose is the sale of tobacco products (including, but not limited to cigars, pipe tobacco and smoking accessories) — and in private smokers' lounges, defined as any enclosed area in or attached to a retail or wholesale tobacco shop (Labor Code Section 6404.5 (d)(4)).

Warehouses

Smoking is **allowed** in warehouse facilities of at least 100,000 square feet of total floor space and with 20 or fewer full-time employees, but not in areas used as office space (Labor Code Section 6404.5 (d)(6)).

Company Vehicles

Smoking is **allowed** in cabs of motor trucks or truck tractors if nonsmoking employees are not present (Labor Code Section 6404.5 (d)(5)).

Healthcare Facilities

Smoking is **allowed** in patient smoking areas of long-term health care facilities (Labor Code Section 6404.5 (d)(12)).

Theatrical Productions

Smoking is **allowed** in theatrical productions if smoking is an integral part of the story (Labor Code Section 6404.5 (d)(9)).

Medical Research or Treatment Sites

Smoking is **allowed** in medical research or treatment sites if smoking is integral to the research or treatment (Labor Code Section 6404.5 (d)(10)).

Private Residences

Smoking is **allowed** in private residences licensed as family day care homes after hours of operation as a family day care home and in those areas where children are not present (Labor Code Section 6404.5 (d)(11)).